

II. REMARKS

Claims 42, 45, 48, 49, 56 and 57 are pending in the subject application. By this reply, claims 49 and 57 are canceled without prejudice or disclaimer. Accordingly, claims 42, 45, 48 and 56, are currently under examination.

35 U.S.C. § 112, Second Paragraph

Claims 49 and 57 stand rejected under 35 U.S.C. § 112, second paragraph on the ground that the claims are indefinite. Although the Office stated that the rejection is not a rejection under 35 U.S.C. § 101 (utility), the ground for rejection is that the claims are incomplete for the alleged failure of the specification to recite a use for the claimed pharmaceutical compositions. The Office noted that use as an immunogen is not "pharmaceutical" even though such use requires *in vivo* administration in a pharmaceutically acceptable carrier. The Office also noted that no known CD40-related diseases are known. However, Applicant's specification on page 24, lines 12 to 16 notes that the absence of CD40bp has been implicated in a number of immunological diseases, such as systemic lupus. Nevertheless, without conceding the correctness of the Office's position, claims 49 and 57 are canceled herewith to place the claims in condition for allowance. The cancellation of these claims are not intended by Applicant to be a dedication to the public of the subject matter of the claims.

In view of the preceding amendment, reconsideration and withdrawal of the rejection is respectfully requested.

III. CONCLUSION

If a telephone interview would advance prosecution of this application, the Office is invited to telephone the undersigned attorney at the number provided below.


In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for

any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 203442102501. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

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